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*Vicki Helmar*  
*Agricultural Commissioner*

**COUNTY OF TUOLUMNE**  
**Tuolumne County Enforcement Work Plan**  
**Calendar Years 2010 – 2012**

**Tuolumne County Pesticide Regulatory Program**  
**By**  
**California Department of Pesticide Regulation**  
**And**  
**Tuolumne County Agricultural Commissioner's Office**

Tuolumne County Agricultural Commissioner's Office

Name: Vicki Helmar

Name:

Signature:

Signature:

Title: Agricultural Commissioner

Title:

Date:

Date:

California Department of Pesticide Regulation

Name: Valerie A. Wilson

Name: Karen Francone

Signature:

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Title: Enforcement Branch Liaison

Title: Supervisor Enforcement Branch

Date:

Date:

## **County Resources**

- Sr. Agricultural Biologist - 50 % of time in PUE
- Agricultural Biologist I – 25% of time in PUE
- Office Technician – 10% of time PUE: data entry
- Agricultural Field Assistant – 10% PUE: data entry
- Possible additional furloughs in 2010 and beyond, the current county furlough is 120 hours in FY09/10

## **A. Restricted Materials Permitting**

### **Permit Evaluation**

- Approximately 22 restricted materials permits issued annually.
- Majority of permits are issued for phenoxy herbicides and strychnine.
- Evaluate the SO2 requirement for wineries and determine if permits need to be issued.
- Permits are only approved and issued by two licensed and trained staff:
  - Sr. Agricultural Biologist – issues 100% of permits for the 2010 permitting season and 50% of permits for the 2011 and 2012 permitting seasons.
  - Agricultural Biologist I – issues 50% of permits beginning with the 2011 permitting season. (It is anticipated that this employee will obtain his County Inspector/Biologist license for Pesticide Regulation in August 2010)
- For new permits initial contact is made by phone or in person to prescreen for hazards necessitating denials.
- If a permit is denied, then the basis of denial is documented on a county form that was developed by California Agricultural Commissioner's and Sealer's Association (CACASA) for the Enforcement Response Regulation.
- Permit review includes verification of qualified person having passed private or qualified applicator certification examination or, in the case of renewals, having completed the required continuing education hours as an option.
- County administers private applicator certification examinations on an individual basis.
- An appointment is required for permit issuance and certification examination.
- Permit issuance and review takes approximately one hour.
- Private Applicator testing takes approximately one hour.
- During issuance we conduct review of adjacent and surrounding properties based on the following to determine potential adverse environmental impact or health effects:
  - Maps submitted by the applicant.
  - Discussion with the applicant.
  - Staff knowledge of the local area through zoning and proposed projects from Community Development Department website and California Environmental Quality Act (CEQA) reviews.
- Permits are entered into the Restricted Materials Management System (RMMS) permitting program and printed out for signature. RMMS was converted from the Restricted Material Permit and Use Program (RMPP) and implemented for the 2009 permitting season. RMPP database is still available.

- Original PR ENF-125, original digital carbonless paper Restricted Material Permit form, may be used in the event the computer system is not functioning and the applicant is in an emergency situation.
- Permits are issued to operator of property or authorized representative; either an employee, farm management firm or Pest Control Advisor (PCA), non-ag permits can be issued to a Pest Control Business.
- Letter of authorization required for issuance or signature of other than operator of property. All letters will be updated annually.
- Permits are valid for one year, expiring at the end of the calendar year (December 31) in which they are issued.
- All permits are entered into two log books; main file log book and Excel spreadsheet for tracking Pesticide Use Reports (PUR).
- All agricultural and non-agricultural permits, except right of way, are site specific. Maps are required.
- Sites are designated by a four digit number associated with the applicant's permit number and a letter signifying the commodity produced. Site locations are identified on the map by their number. Forestry site identification numbers are provided by the applicants and are usually associated with a Timber Harvest Plan or other specific individual identification associated with a project for that calendar year.
- Homes, wells, adjacent environment and sensitive areas are identified on maps.
- Handouts reviewed with permittee at time of issuance:
  - In house pesticide use requirements; updated on an annual basis and will be built into the RMMS program.
  - California Department of Pesticide Regulation (CDPR) pesticide use requirements form PR-ENF-116.
  - Restricted materials permit conditions; updated on an annual basis and will be built into the RMMS program.
  - Notice of intent form PR-ENF-126X and instructions
  - Additional monthly use report forms for non-restricted applications when applicable: PR-ENF-184, PR-ENF-025 or PR-ENF-017a or c and instructions are provided. The use of online RMMS web entry of use reports will continue to be encouraged.
  - California restricted materials list if requested.
  - In house handler training forms.
  - Application specific information requirements.
  - Copy of a pesticide label if requested for informational purposes; explain to applicant that the actual product label is the law.
  - Copy of pesticide Special Local Need (SLN) if required.
  - Pesticide Safety Information Series (PSIS) A or N.
  - University of California Integrated Pest Management Pest Notes for specific pests to be controlled.
  - List of beekeepers adjacent to the property to be treated if applicable.
- For permit amendments entered into the RMMS, we require the permittee to sign and date the amendment.
- Permit/certification renewals usually occur after county sponsored continuing education opportunity/training offered.
- The county offers a minimum of two 2.5 hours of continuing education classes each calendar year.
- For renewals, prior year permit files are reviewed for PURs, non-compliances and inspections to determine any potential problem areas.

- Approximately 18 Notices of Intent (NOIs) to apply Restricted Materials were received in 2009. Crop losses due to freeze and drought conditions in both 2008 and 2009 resulted in a drastic decline in the number of NOIs filed the last two years.
- 24 hour NOIs are required.
- NOIs are accepted by telephone to the main telephone line, fax, or in person and are monitored between 8 am-5 pm, Mondays –Fridays. In 2009 the web users RMMS online NOI submittal program was implemented.
- After hours the NOIs are picked up by voice mail which can be accessed 24 hours/7 days per week and through the web users RMMS online NOI submittal program.
- The staff receiving the NOI transcribes the information to an in-house log that is kept in a file in the office, posts a copy on a bulletin board for staff and enters the NOI into the RMMS permit system.
- Licensed staff reviews NOI to determine if a Pre-Site inspection is required and for consistency with Restricted Materials Permit (RMP) issuance.

### Strengths

- Staff experience and knowledge of local conditions helps to reduce substantial adverse environmental impacts.
- Staff is knowledgeable of ag-urban interface issues and land use changes in the county.
- Historically there have been few permit denials due to potential adverse environmental impacts.
- Issuance of one year permits even for permanent crops allows for regular review of permits, reducing chances for potential adverse impacts.
- Specific permit conditions are updated annually to address the changing level of ag-urban interface issues, new regulation requirements, changes in small organic growers and new crop plantings in the county.

### Weaknesses

- Some maps are still hand drawn and not to scale.
- NOIs are transcribed onto log but actual inspection time depends on staff/office workload and priority issues within the office. Every effort is made to perform a Pre-Site Inspection. As required, a minimum of 5% pre-application site inspections are performed.
- Obtaining PURs in a timely manner has been a consistent issue.
- Reduction in licensed and experience staff for issuance of RMP, inspections, and use monitoring due to the elimination of the Deputy Agricultural Commissioner position December 2009. Possible additional furloughs in 2010 and beyond, the current county furlough is 120 hours in FY09/10

### GOALS

- Assure that the evaluation process for restricted materials permit applications and NOIs is complete and thorough, taking into consideration all aspects of risk assessment through the use of updates and improvements to permit information necessary to make sound determinations on adverse effects.

- Training new farm managers. There is an influx of new agriculture property owners which takes extra time to introduce them into the RMMS system and CDPR requirements.
- Training permittees to use the RMMS website for submittal of PUR's will increase the compliance for delinquent PUR's and free up existing staff for inspections and monitoring of pesticide use in the county.
- Transition to the new Pesticide Permitting and Use Reporting System will occur for the 2012 permitting season

#### Deliverables

- Review county Geographic Information System (GIS) parcel data, if available on county website prior to issuing new restricted material permits to assess potential adverse effects.
- Evaluate existing sites for changes in adjacent land uses and amend permits accordingly to prevent potential adverse effects.
- Review permits that have restricted materials that have not been used for past 3 years and work with permittee to eliminate such pesticides.
- Having more detailed information on each permittee will be more readily available with the implementation of RMMS.

#### Measure Success

- End of each calendar year review all restricted material permit files for the following corrective actions:
  - Update existing site maps to identify impacts to adjacent land.
  - Elimination of pesticides not used for the last 5 years.
- End of 2010 review the effectiveness in staff time by using RMMS web-based program for PUR's.
- End of each calendar year evaluate the Operator Identification Numbers issued to determine whether the number of Restricted Material Permits (RMP) and restricted material usage has decreased from previous years.

#### Site Monitoring Plan Development

- Approximately 1500 annual sites are issued.
- Majority of NOIs are for the following restricted materials/crops:
  - Phenoxy herbicides for forest, received during April – July, weather dependant.
  - Phenoxy herbicides for forage crops, received during January-March.
  - Phenoxy herbicides for noxious weed control, received during January – May.
  - Paraquat for wine grapes, received during January through April.
  - Strychnine for forest received May to November.
  - Vikane for structural fumigations, less than 5 per year annual average.
- Sites to evaluate are based on:
  - hazard of pesticide use by crop
  - impacts to apiaries
  - applications near roads and residences
  - environment condition with respect to schools and public property use

- general weather trends
  - local conditions
  - increase in small “less than 2 acre” registered organic truck farmers
  - employee handlers
  - compliance history
- Pre-application site inspections are performed within the minimum 5%.

### Strengths

- Staff with many years of experience in county with knowledge of local conditions.
- Majority of restricted material products are limited to herbicides and rodenticides.
- Staff’s awareness of county’s changing agricultural profile including expansions of ag/urban interface, increase in sustainable/organic farming, and transition of cropping patterns.

### Weaknesses

- Some application sites are remote, in the case of forestry use, staff must coordinate with landowner/operator/Pest Control business for security issues.
- Reduction in licensed and experience staff for issuance of RMP, inspections and use monitoring due to the elimination of the Deputy Agricultural Commissioner position December 2009. Possible additional furloughs in 2010 and beyond, the current county furlough is 120 hours in FY09/10

### GOALS

- Assure that site-monitoring for restricted material use is effective, preventative and comprehensive, taking into consideration the following risk factors:
  - Pesticide hazards associated with
    - phenoxy herbicides
    - strychnine
  - Local conditions
    - new residential developments within the ag-urban interface
    - increase in small “less than 2 acre” registered organic truck farmers
  - Compliance histories
    - permittee
    - pest control businesses

### Deliverables

- Pre-application site inspections will be performed on a minimum of 5% of the notices of intent.
- Requests for recommendations will be increased to better evaluate risks associated with proposed applications.

### Measure Success

- End of each calendar year review of PRAMR to determine if required 5 % pre-application site inspections were performed.
- End of each calendar year:

- Review PCA recommendations for Forestry.
- Evaluate decrease in potential or actual risks by using better quality maps.
- Evaluate decrease in restricted material usage due to new non restricted material formulations.

## **B. Compliance Monitoring**

### **Comprehensive Inspection Plan**

- Inspections are performed by two licensed and trained staff:
  - Sr. Agricultural Biologist – performs 100% of inspections for 2010 and 50% of inspections for the 2011 and 2012
  - Agricultural Biologist I – performs 50% of inspections beginning in 2011. (It is anticipated that this employee will obtain his County Inspector/Biologist license for Pesticide Regulation in August 2010)
- Inspections are performed between 7 am-4 pm, Mondays-Fridays
- 35 % of inspections are scheduled
  - Pest Control Business (PCB)/ grower headquarter safety
  - pre-application site
  - restricted materials
  - Non crop applications
- Majority of scheduled agricultural application inspections occur between February and May when weed control takes place with restricted materials (Phenoxy herbicides), Pre-emergent herbicide for wellheads protection and general non-restricted applications.
- Of those inspections that are not scheduled, 25 % are targeted and are concentrated on the agricultural crop season cycle; forestry, apples, wine grapes, stone fruit and rangeland/pastureland.
- Targeted inspections are prioritized by:
  - Applicator compliance history
  - Sensitive sites and toxicity of pesticide
  - Location of application
- 75 % of inspections are random in urban areas
  - Landscape Maintenance Gardeners
  - Structural/Agricultural Pest Control Business (AG PCB)

### **Strengths**

- The size and centralized location of the agricultural pesticide application areas and the experience of the staff performing enforcement allows for an intimate familiarity with pesticide usage and cropping patterns in the county.
- A targeted inspection plan that addresses the following components:
  - Violation history
  - Potential for Worker Health and Safety (WHS) violations
  - Adjacent environmental influences or factors; schools, organic growers, etc.
- Low application numbers of 'Danger' pesticides being handled by employees requiring closed systems.
- The frequency of licensed headquarters employee safety inspections is currently on an annual basis.
- The frequency of dealer inspections is on an annual basis.

- This frequency schedule allows for effective identification and enforcement action of non-compliances.
- Low numbers of pesticide related incidents, reducing the need for non-targeted compliance driven inspections.

### Weaknesses

- Reduction in licensed and experience staff for issuance of RMP, inspections and use monitoring due to the elimination of the Deputy Agricultural Commissioner position December 2009. Possible additional furloughs in 2010 and beyond, the current county furlough is 120 hours in FY09/10

### GOALS

- Assure that compliance monitoring is effective and comprehensive, ensuring the safety of pesticide handlers, fieldworkers, the public, and the environment through the use of an inspection strategy that has a measurable effect on compliance improvement.

### Deliverables

- Maintain frequency of inspections for headquarters and dealers.
- Maintain targeted inspections for situations where WHS violations have occurred in the past or have the potential to occur.
- Increase targeted inspections when necessary for repeat violations.

### Measuring Success

- Midway between and at the end of each calendar year review of PRAMR to determine if there has been a decrease in the number of pesticide use and records inspection non-compliances for targeted components.
- July and December of each calendar year review of types of non-compliances found in targeted inspections.
- July and December of each calendar year review Notices of Proposed Action (NOPA) to determine their effect on number and kinds of non-compliances.

### Investigation Response and Reporting

- Pesticide-related investigations are conducted by two trained staff:
  - Sr. Agricultural Biologist - responsible for 90 % of investigations in 2010; 70% of investigations in 2011 and 2012
  - Agricultural Biologist I - responsible for 5 % of investigations in 2010; 30% of investigations in 2011 and 2012
- Complaints are received by Office Technician or Biologists.
- Once received they are given to the Commissioner who assigns investigation responsibility based on workload and trained staff availability.
- All complaints or incidents that may be related to pesticides receive a response and results are documented on complaint forms or investigative reports.
- All investigation and complaint reports are reviewed and approved by the Agricultural Commissioner.
- All of the investigation reports once complete are submitted to CDPR.



## Strengths

- Routing assignments of the investigation/complaint and review and approval of reports goes directly to the Agricultural Commissioner. Without any intermediate personnel the reports are processed in a timely manner.
- Low number of investigations and complaints received by the county allows for ability to respond and complete investigations and reports in a timely manner.
- Staff keeps current with investigative training and reviews investigative procedures.
- Our investigative response and reporting has resulted in the following:
  - Were effective in providing awareness for worker health and safety issues.
  - Were conclusive in explaining why or how the episode occurred.
  - Allowed us to take appropriate enforcement action when causal violations were discovered.
  - Allowed us to take preventative measures at the applicator/business/local program level.

## Weaknesses

- The elimination of the Deputy Agricultural Commissioner position December 2009 reduces the number of supervisory/management staff to oversee investigations and provide direction and guidance.

## GOALS

- Maintain implementation strategy of current investigative response with regard to timely initiation and completion of all priority and non-priority investigations.
- Maintain implementation strategy of current investigative response with regard to use of existing violation analysis and high quality in investigative thoroughness and report accuracy.

## Deliverables

- Timely episode investigation initiation and completion.
- Investigation reports that are accurate and complete.
- Licensed staff is always updated on investigative procedures and all resources are made available.
- Follow up with NOPA if applicable.

## Measure Success

- End of 2009 reviewed the number of returned/incomplete investigation reports. No reports were returned
- End of each calendar year review the number of returned/incomplete investigation reports.
- End of 2009 reviewed the number of NOPA's for a success in compliance. One investigation resulted in a NOPA. The respondent stipulated to the violation and paid the penalty in full.
- End of each calendar year review the number of NOPA's for a success in compliance.

## Enforcement Response

### Enforcement Response Evaluation

- All actions are discussed with the Commissioner prior to implementation (with the exception of violation notices checked off at the time of inspections on inspection forms)
- Compliance actions are prepared by two trained staff, Sr. Agricultural Biologist and Agricultural Biologist I.
- Enforcement actions are prepared by Sr. Agricultural Biologist.
- All actions are reviewed and signed by Commissioner.
- Review of the last five years shows that all enforcement actions commenced within two years of the occurrence of the violation, primarily commencing within 6- 12 months of violation.
- Decision trees in the CDPR Enforcement Guidelines are followed to determine most appropriate action when violations are identified.
- Pesticide use report violations receive warning letters and notices of violation. Continual pesticide use report violations result in civil penalty actions.
- Worker health and safety violations receive civil penalty actions, unless first time paperwork violation.
- Local worker health and safety violation issues are primarily:
  - Documentation of annual employee training
  - PPE
- For civil penalty actions, the fine guidelines are followed.
- If the action or fine deviates from the guidelines a justification is written into the action.
- Decision reports are written in accordance with the Enforcement Response Regulations.
- All NOPAs provide respondents with detailed information on alleged violations, proposed fine level, and their right for an opportunity to be heard.
- All inspections and non-compliances are tracked on a hand written log sheet and in the Automatic Inspection and Reporting System (AIRS) programs.
- All actions are tracked on a hand written log sheet.
- Copies of inspection reports and actions are maintained in Operator Identification Number/ Restricted Materials / permit or business files.

### Strengths

- Limited chain of command within our office allows for timely review and approval of actions
- Maintaining copies of reports and actions within individual files allows for review of violator's history and selection of most appropriate action for the violation.
- Use of enforcement actions and fines as a tool to improve compliance.

### Weaknesses

- Reduction in licensed and experience staff for issuance of RMP, inspections and use monitoring due to the elimination of the Deputy Agricultural Commissioner position

December 2009. Possible additional furloughs in 2010 and beyond, the current county furlough is 120 hours in FY09/10

## GOALS

- Provide a swift, consistent and fair response to non-compliances that results in future compliance by the respondent while working to maintain the respect of the regulated industry as well as maintaining the integrity of this office.
- Reduce the staff time spent on MSPUR error by implementing the RMMS web-based PUR/MSPUR program.

## Deliverables

- Using the AIRS system for tracking a two-year compliance history development of an enforcement plan that takes into consideration violation activities specific to the county.

## Measure Success

- July and December of each calendar year review of individual files to verify if decrease in repeat non-compliances by violators resulted from new compliance and enforcement plan.
- End of each calendar year review of enforcement response to determine if effort was directed at violations that pose the greatest risk to people or the environment.
- Public training and outreach activities have proven to be an effective compliance tool. Public outreach and trainings are provided for Master Gardeners, growers, government rights of way, golf courses, Fire Safe Council, Federal agencies, garden clubs and general county public forums.
- Continuing Education (CE) units are provided at no cost to persons licensed by CDPR and to Private Applicators certified (PAC) by the Agricultural Commissioner's Office.
- The county Agricultural commissioner's Office does perform compliance inspection when requested.